

## Bureau of Industry and Security, Commerce

## § 748.10

User Certificate to the address stated in § 748.1(d)(2) of this part, “Attn: Import/End-User Certificate Request”.

(2) The letter request must include the name and address of the importer, the Application Control Number under which the original Import or End-User Certificate was submitted, the Application Control Numbers for any subsequent license applications supported by the same certificate, and one of the following statements, if applicable:

(i) If the certificate covers a quantity greater than the total quantity identified on the license application(s) submitted against it, a statement that the certificate will not be used in connection with another license application.

(ii) If you do not intend to make any additional shipments under a license covered by the certificate, or are in possession of an expired license covered by the certificate, a statement to this effect, indicating the unshipped items.

(j) *Recordkeeping requirements for returning certificates retained by the applicant.* (1) Though the recordkeeping provisions of the EAR require that all original support documents be retained for a period of five years, an unused or partially used certificate may be returned at the request of a foreign importer provided that you submit the original certificate, accompanied by a letter of explanation, a copy of each license covered by the certificate, and a list of all shipments made against each license to BIS at the address listed in § 748.2(c). BIS will notify you in writing whether your request has been granted. The following information must be contained in your letter of explanation:

(i) A statement citing the foreign importer’s request for return of the certificate;

(ii) The license number(s) that have been issued against the certificate (including both outstanding and expired licenses); and

(iii) If the certificate covers a quantity greater than the total quantity stated on the license(s), you must include a statement that the certificate will not be used in connection with another license application.

(2) If your request is granted, BIS will return the certificate to you. You must make a copy of the certificate before you return the original to the im-

porter. This copy must show all the information contained on the original certificate including any notation made on the certificate by BIS. The copies must be retained on file along with your correspondence in accordance with the recordkeeping provisions in part 762 of the EAR.

[61 FR 12812, Mar. 25, 1996, as amended at 62 FR 25461, May 9, 1997; 63 FR 50525, Sept. 22, 1998; 64 FR 2431, Jan. 14, 1999; 64 FR 17973, Apr. 13, 1999; 70 FR 72074, Dec. 1, 2005; 72 FR 33659, June 19, 2007; 75 FR 31681, June 4, 2010; 76 FR 54931, Sept. 6, 2011; 76 FR 70339, Nov. 14, 2011]

### § 748.10 Import Certificates and End-User Statements.

(a) *Scope.* There are a variety of Import Certificates and End-User Statements currently in use by various governments. The control exercised by the government issuing the Import Certificate or End-User Statement is in addition to the conditions and restrictions placed on the transaction by BIS. The laws and regulations of the United States are in no way modified, changed, or superseded by the issuance of an Import Certificate or End-User Statement. This section describes exceptions and relationships for both Import Certificates and End-User Statements, and generally applies only to transactions exceeding \$50,000. In the case of countries identified in § 748.9(b)(2) of this part (excluding the People’s Republic of China (PRC)), Import Certificates are required for national security controlled items in transactions exceeding \$50,000. In the case of the PRC, End-User Statements are required for transactions exceeding \$50,000 involving all items that require a license to the PRC for any reason. However, this \$50,000 threshold is lower for certain exports to the PRC (see paragraph (b)(3) of this section).

(b) *Import Certificate or End-User Statement.* Unless your transaction meets one of the exemptions stated in § 748.9(a) of this part, an Import Certificate or End-User Statement must be obtained, if:

(1) Any commodities on your license application are controlled for national security (NS) reasons (except for items controlled under ECCNs 5A002 or 5B002), or any commodities to the PRC

## § 748.10

## 15 CFR Ch. VII (1–1–15 Edition)

on your license application are controlled for any reason;

(2) The ultimate destination is a country listed in § 748.9(b)(2) of this part; and

(3) Your license application involves the export of commodities classified in a single entry on the CCL, and your ultimate consignee is in any destination listed in § 748.9(b)(2), and the total value of your transaction exceeds \$50,000. Note that the \$50,000 transaction threshold does not apply to certain exports to the PRC. If your transaction involves an export to the PRC of a computer that requires a license for any reason, an End-User Statement is required regardless of dollar value. Also, if your transaction involves an export to the PRC of an item classified under ECCN 6A003 that requires a license for any reason, an End-User Statement is required for transactions exceeding \$5000.

(i) Your license application may list several separate CCL entries. If any individual entry including an item that is controlled for national security reasons exceeds \$50,000, then an Import Certificate must be obtained covering all items controlled for national security reasons on your license application. If the total value of entries on a license application that require a license to the PRC for any reason listed on the CCL exceeds \$50,000, then a PRC End-User Statement covering all such controlled items that require a license to the PRC on your license application must be obtained;

(ii) If your license application involves a lesser transaction that is part of a larger order for items controlled for national security reasons (or, for the PRC, for any reason) in a single ECCN exceeding \$50,000, an Import Certificate, or a PRC End-User Statement, as appropriate, must be obtained.

(iii) You may be specifically requested by BIS to obtain an Import Certificate for a transaction valued under \$50,000. You also may be specifically requested by BIS to obtain an End-User Statement for a transaction valued under \$50,000 or for a transaction that requires a license to the PRC for reasons in the EAR other than those listed in the CCL.

(c) *How to obtain an Import Certificate or End-User Statement.* (1) Applicants must request that the importer (e.g., ultimate consignee or purchaser) obtain the Import Certificate and that it be issued covering only those items that are controlled for national security reasons. Exporters should not request that importers obtain Import Certificates for items that are controlled for reasons other than national security. Note that in the case of the PRC, applicants must request that the importer obtain an End-User Statement for all items on a license application that require a license to the PRC for any reason listed on the CCL. Applicants must obtain original Import Certificate or End-User Statements from importers.

(2) The applicant's name must appear on the Import Certificate or End-User Statement submitted to BIS as either the applicant, supplier, or order party. The Import Certificate may be made out to either the ultimate consignee or the purchaser, even though they are different parties, as long as both are located in the same country.

(3) If your transaction requires the support of a PRC End-User Statement, you must ensure that the following information is included on the PRC End-User Statement signed by an official of the Department of Mechanic, Electronic and High Technology Industries, Export Control Division I, of the PRC Ministry of Commerce (MOFCOM), with MOFCOM's seal affixed to it:

- (i) Title of contract and contract number (optional);
- (ii) Names of importer and exporter;
- (iii) End-User and end-use;
- (iv) Description of the item, quantity and dollar value; and
- (v) Signature of the importer and date.

NOTE TO PARAGRAPH (C) OF THIS SECTION: You should furnish the consignee with the item description contained in the CCL to be used in applying for the Import or End-User Statement. It is also advisable to furnish a manufacturer's catalog, brochure, or technical specifications if the item is new.

(d) *Where to obtain Import and End-User Certificates.* See Supplement No. 4 to this part for a list of the authorities administering the Import Certificate/

Delivery Verification and End-User Certificate Systems in other countries.

(e) *Triangular symbol on International Import Certificates.* (1) In accordance with international practice, the issuing government may stamp a triangular symbol on the International Import Certificate (IIC). This symbol is notification that the importer does not intend to import or retain the items in the country issuing the certificate, but that, in any case, the items will not be delivered to any destination except in accordance with the export regulations of the issuing country.

(2) If you receive an IIC bearing a triangular symbol, you must identify all parties to the transaction on the license application, including those located outside the country issuing the IIC. If the importer declines to provide you with this information, you may advise the importer to provide the information directly to BIS, through a U.S. Foreign Commercial Service office, or in a sealed envelope to you marked "To be opened by BIS only".

(f) *Multiple license applications supported by one certificate.* An Import or End-User Certificate may cover more than one purchase order and more than one item. Where the certificate includes items for which more than one license application will be submitted, you must include in Block 24 on your application, or in an attachment to each license application submitted against the certificate, the following certification:

I (We) certify that the quantities of items shown on this license application, based on the Certificate identified in Block 13 of this license application, when added to the quantities shown on all other license applications submitted to BIS based on the same Certificate, do not total more than the total quantities shown on the above cited Certificate.

(g) *Submission of Import Certificates and End-User Statements.* Certificates and Statements must be retained on file by the applicant in accordance with the recordkeeping provisions of part 762 of the EAR, and should not be submitted with the license application. For more information on what Import Certificate and End-User Statement information must be included in license applications, refer to § 748.9(c) of the EAR. In addition, as set forth in

§ 748.12(e), to assist in license reviews, BIS will require applicants, on a random basis, to submit specific original Import Certificate and End-User Statements.

(h) *Alterations.* After an Import or End-User Certificate is issued by a foreign government, no corrections, additions, or alterations may be made on the Certificate by any person. If you desire to explain any information contained on the Certificate, you may attach a signed statement to the Certificate.

(i) *Request for Delivery Verification.* BIS will, on a selective basis, require Delivery Verification documents for shipments supported by Import Certificates. You will be notified if Delivery Verification is required at the time of issuance of the license. Please refer to § 748.13 of this part for detailed information on these procedures.

(j) *Retention procedures.* You must retain on file the original copy of any certificate issued in support of a license application submitted to BIS, unless the original is submitted with the license application. All recordkeeping provisions contained in part 762 of the EAR apply to this requirement, except that reproductions may not be substituted for the officially authenticated original in this instance.

[61 FR 12812, Mar. 25, 1996, as amended at 62 FR 25461, May 9, 1997; 63 FR 50525, Sept. 22, 1998; 64 FR 2431, Jan. 14, 1999; 65 FR 12923, Mar. 10, 2000; 65 FR 60856, Oct. 13, 2000; 66 FR 5447, Jan. 19, 2001; 66 FR 6465, Jan. 22, 2001; 67 FR 10615, Mar. 8, 2002; 72 FR 33659, June 19, 2007; 73 FR 36, Jan. 2, 2008]

#### § 748.11 Statement by Ultimate Consignee and Purchaser.

(a) *Exceptions to completing a Statement by Ultimate Consignee and Purchaser.* A Statement by the Ultimate Consignee and/or Purchaser involved in a transaction must be completed unless:

(1) An International Import Certificate, a People's Republic of China End-User Certificate, an Indian Import Certificate, or a Bulgarian, Czech, Hungarian, Polish, Romanian or Slovak Import Certificate is required in support of the license application;

(2) The applicant is the same person as the ultimate consignee, provided the